

MELLINGER KARTZMAN LLC

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Attorneys for Steven P. Kartzman, Chapter 7 Trustee



Order Filed on January 22, 2021
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In re:

**MICHAEL KALFUS AND ROBIN
KALFUS,**

Debtors.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Case No.: 18-13396 (VFP)

Chapter 7

Honorable Vincent F. Papalia

**CONSENT ORDER RESOLVING CLAIM FOR
TURNOVER OF PROPERTY OF THE
ESTATE TO THE TRUSTEE PURSUANT TO 11 U.S.C. § 542(a)**

The relief set forth on the following pages is hereby **ORDERED**.

DATED: January 22, 2021

A handwritten signature in black ink, appearing to read "Vincent F. Papalia".

Honorable Vincent F. Papalia
United States Bankruptcy Judge

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Debtor: Michael Kalfus and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Consent Order Resolving Claim for Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

THIS MATTER having been brought before the Court by Steven P. Kartzman, the Court-appointed Chapter 7 Trustee (the “Trustee”), by and through his attorneys Mellinger Kartzman LLC, on application for entry of a Consent Order in lieu of motion resolving claim for turnover of property of the estate to the Trustee Pursuant to 11 U.S.C. § 542(a), and a prior Motion for Entry of an Order Directing Turnover of Rents Pursuant to 11 U.S.C. § 542(a) having been filed on February 4, 2020 at Dkt. No. 150 (the “Motion”), and an Interim Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a) having been entered on March 4, 2020 at Dkt. No. 171 (the “Interim Order”), and an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a), and Denying Cross-Motion Filed by the Debtors to Compel Abandonment having been entered on April 8, 2020 at Dkt. No. 192 (the “April 8, 2020 Order”), which directed Michael Kalfus and Robin Kalfus (the “Debtors”) to turnover at least \$32,369.51, and all parties with an interest having been properly served, and the Trustee and the Debtors having agreed to amicably resolve the issues between the estate and the Debtors on the terms set forth herein, as appears from the signatures of counsel affixed hereto, it is hereby

ORDERED AS FOLLOWS:

1. The Debtors shall pay to the Trustee the sum of \$42,000.00 (the “Settlement Amount”), in order to turnover to the Trustee the rents in excess of expenses received by the Debtors post-petition, for the Debtors’ real property located at 106 Brookside Drive, Killington, Vermont (the “Property”), to be paid as follows:

- a. \$1,750 per month beginning on January 15, 2021, on the fifteenth of each month for a total of 20 months (the “Monthly Payments”); and

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Debtor: Michael Kalfus and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Consent Order Resolving Claim for Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

- b. \$7,000 to be paid by September 15, 2022 (the “Final Payment”, and with the Monthly Payments, the (“Settlement Payments”).

2. The Settlement Amount shall be inclusive of the \$32,369.51 which the Debtors were ordered to turnover to the Trustee as part of the April 8, 2020 Order.

3. The Debtors are not entitled to an exemption as to any amounts turned over to the Trustee by the Ch. 11 estate, nor any funds recovered by the Trustee.

4. To the extent that the Debtors fail to make the required payment of the Settlement Amount, the Trustee shall file a certification of default with the Court on notice to the Debtors. Should the Debtors fail to cure the default within ten (10) days of the filing of a certification of default, the Court shall:

- a. Enter a non-dischargeable judgment against the Debtors in an amount equal to 1.5 times the Settlement Amount, less any payments made to the Trustee (the “Judgment”); and
 - b. Enter an order revoking the Debtors’ discharge pursuant to 11 U.S.C. § 727(d)(2).

5. The parties hereto shall execute any and all documents and pleadings reasonably necessary to implement all of the foregoing provisions.

6. The terms of this Consent Order are subject to the Court’s approval and the issuance of a Notice of Settlement (the “Notice”) and the following:

- (a) If no objection to the Notice is filed, the issuance and docketing of a Certification of No Objection by the Clerk of the Bankruptcy Court; or
 - (b) If any objection to the Notice is filed, the overruling of any such objection by this Court.

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Debtor: Michael Kalfus and Robin Kalfus

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In the event that an objection to the settlement is filed and sustained, the parties shall be restored to their pre-settlement positions.

7. The parties, and anyone who succeeds to their rights and responsibilities hereunder, including their successors and/or assigns, are bound by this Consent Order. This Consent Order is made for the benefit of the parties and all who succeed to their rights and responsibilities.

8. The Bankruptcy Court shall retain exclusive jurisdiction to adjudicate all matters arising under or in connection with this Consent Order.

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Debtor: Michael Kalfus and Robin Kalfus

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Caption: Consent Order Resolving Claim for Turnover of Property of the Estate to the Trustee Pursuant to 11
U.S.C. § 542(a)

*The undersigned hereby consent to
the form and entry of the within Order:*

MELLINGER KARTZMAN LLC
Attorneys for Trustee

MCMANIMON, SCOTLAND
& BAUMANN, LLC
Attorneys for Debtors

By: /s/ Judah B. Loewenstein
JUDAH B. LOEWENSTEIN, ESQ.

By: /s/ Anthony Sodono, III
ANTHONY SODONO, III, ESQ.

Dated: January 14, 2021

Dated: January 14, 2021

By: /s/ Michael Kalfus
MICHAEL KALFUS

Dated: January 13, 2021

By: /s/ Robin Kalfus
ROBIN KALFUS

Dated: January 13, 2021

In re:
Michael Kalfus
Robin Kalfus
Debtors

Case No. 18-13396-VFP
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0312-2
Date Rcvd: Jan 22, 2021

User: admin
Form ID: pdf903

Page 1 of 3
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 24, 2021:

Recip ID	Recipient Name and Address
db/jdb	+ Michael Kalfus, Robin Kalfus, 7 Lakeview Terrace, Montville, NJ 07045-9158

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 24, 2021

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 22, 2021 at the address(es) listed below:

Name	Email Address
Anthony Sodono, III	on behalf of Joint Debtor Robin Kalfus asodono@msbnj.com
Anthony Sodono, III	on behalf of Defendant Michael Kalfus asodono@msbnj.com
Anthony Sodono, III	on behalf of Defendant Robin Kalfus asodono@msbnj.com
Anthony Sodono, III	on behalf of Debtor Michael Kalfus asodono@msbnj.com
Anthony Sodono, III	on behalf of Defendant Michael and Robin Kalfus asodono@msbnj.com
Caitlin Conklin	

District/off: 0312-2

User: admin

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on behalf of Creditor Lakeland Bank caitlin.conklin@klgates.com Aidan.Nowak@klgates.com

Charles Michael Rowan

on behalf of Creditor Albert Kenney mrowan@saul.com

Christian Del Toro

on behalf of Creditor Haven Savings Bank cdeltoro@martonelaw.com bky@martonelaw.com

David Gerardi

on behalf of U.S. Trustee U.S. Trustee david.gerardi@usdoj.gov

Denise E. Carlon

on behalf of Creditor VW Credit Leasing Ltd dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com

Elizabeth L. Wassall

on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE (CWALT 2005-J9) ewassall@logs.com, njbankruptcyntifications@logs.com;logsecf@logs.com

Eugene Killian, Jr.

on behalf of Defendant Syracuse University ekillian@tkfpc.com lstudwell@tkfpc.com;rmilun@tkfpc.com

Forrest Scott Turkish

on behalf of Attorney Forrest Turkish fsturkish@aol.com

Frank J Martone

on behalf of Creditor Haven Savings Bank bky@martonelaw.com

Guillermo Gonzalez

on behalf of Joint Debtor Robin Kalfus ggonzalez@scura.com
ecfbkfilings@scuramealey.com;dstevens@scura.com;lhague@scura.com;mduran@scura.com;vmajano@scura.com;rshah@scura.com;martinezcr93878@notify.bestcase.com

Guillermo Gonzalez

on behalf of Debtor Michael Kalfus ggonzalez@scura.com
ecfbkfilings@scuramealey.com;dstevens@scura.com;lhague@scura.com;mduran@scura.com;vmajano@scura.com;rshah@scura.com;martinezcr93878@notify.bestcase.com

John O'Boyle

on behalf of Plaintiff Osborn Financial Group LLC joboyle@norgaardfirm.com,
sferreira@norgaardfirm.com;184grandno@gmail.com;kcimmmino@norgaardfirm.com;crose@norgaardfirm.com

John A. Fialcowitz

on behalf of Plaintiff Fishman consulting group llc john@fialcowitzlaw.com

Joseph L. Schwartz

on behalf of Interested Party The County of Morris Morris County Sheriff's Office jschwartz@riker.com

Judah B Loewenstein

on behalf of Trustee Steven P. Kartzman jloewenstein@msklaw.net

Judah B Loewenstein

on behalf of Plaintiff Steven P. Kartzman jloewenstein@msklaw.net

Mark E. Hall

on behalf of Mediator Mark Hall mhall@foxrothschild.com cbrown@foxrothschild.com

Matteo Percontino

on behalf of Creditor Lakeland Bank mpercontino@coleschotz.com

Melissa S DiCerbo

on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE (CWALT 2005-J9) nj-ecfmail@mwc-law.com, nj-ecfmail@ecf.courtdrive.com

Rebecca Ann Solarz

on behalf of Creditor VW Credit Leasing Ltd rsolarz@kmlawgroup.com

Richard Honig

on behalf of Mediator Richard B. Honig rbhonig@hlgsllaw.com

Richard James Tracy, III

on behalf of Creditor The Bank of New York Mellon FKA The Bank of New York, as Trustee for the Certificateholders of Cwalt Alternative Loan Trust 2005-J9, Mortgage Pass-Through Certificates, Series 2005-J9 by its servicin richard.tracy.iii@gmail.com, tshariff@schillerknapp.com;kcollins@schillerknapp.com;ahight@schillerknapp.com

Sari Blair Placona

on behalf of Debtor Michael Kalfus splacona@msbnj.com

Sari Blair Placona

on behalf of Joint Debtor Robin Kalfus splacona@msbnj.com

Steven P. Kartzman

on behalf of Trustee Steven P. Kartzman kartztee@optonline.net
jzapata@msklaw.net;nj16@ecfbis.com;jloewenstein@msklaw.net;denisew@msklaw.net;sjayson@msklaw.net;skartzman@mskl

District/off: 0312-2

User: admin

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Steven P. Kelly

on behalf of Defendant American Express National Bank skelly@sterneisenberg.com bkecf@sterneisenberg.com

U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

William L. Waldman

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TOTAL: 35